

Mr. Speaker, I rise to introduce two pieces of legislation restoring the First Amendment rights of consumers to receive truthful information regarding the benefits of foods and dietary supplements. The first bill, the Health Freedom Restoration Act, codifies the First Amendment by ending the Food and Drug Administration (FDA)'s efforts to censor truthful health claims. The second bill, the Freedom of Health Speech Act, codifies the First and Fifth Amendment by requiring the Federal Trade Commission's (FTC) to prove that health claims are false before it takes action to stop manufactures and marketers from making the claims.

The American people have made it clear they do not want the federal government to interfere with their access to dietary supplements, yet the FDA and the FTC continue to engage in heavy-handed attempts to restrict such access. The FDA continues to frustrate consumers' efforts to learn how they can improve their health even after Congress, responding to a record number of constituents' comments, passed the Dietary Supplement and Health and Education Act of 1994 (DSHEA). FDA bureaucrats are so determined to frustrate consumers' access to truthful information that they are even evading their duty to comply with four federal court decisions vindicating consumers' First Amendment rights to discover the health benefits of foods and dietary supplements.

FDA bureaucrats have even refused to abide by the DSHEA section allowing the public to have access to scientific articles and publications regarding the role of nutrients in treating diseases by claiming that every article concerning this topic is evidence of intent to sell an unapproved and unlawful drug.

Because of the FDA's censorship of truthful health claims, millions of Americans may suffer with diseases and other health care problems they may have avoided by using dietary supplements. For example, the FDA prohibited consumers from learning how folic acid reduces the risk of neural tube defects for four years after the Centers for Disease Control and Prevention recommended every woman of childbearing age take folic acid supplements to reduce neural tube defects. This FDA action contributed to an estimated 10,000 cases of preventable neural tube defects!

The FDA also continues to prohibit consumers from learning about the scientific evidence that glucosamine and chondroitin sulfate are effective in the treatment of osteoarthritis; that omega-3 fatty acids may reduce the risk of sudden death heart attack; that calcium may reduce the risk of bone fractures; and that vitamin D may reduce the risk of osteoporosis, hypertension, and cancer.

The Health Freedom Restoration Act will force the FDA to at last comply with the commands of Congress, the First Amendment, numerous federal courts, and the American people by codifying the First Amendment prohibition on prior restraint. Specifically, the Health Freedom Restoration Act stops the FDA from censoring truthful claims about the curative, mitigative, or preventative effects of dietary supplements. The Health Freedom Restoration Act also stops the FDA from prohibiting the distribution of scientific articles and publications regarding the role of nutrients in protecting against disease. The FDA has proven that it cannot be trusted to protect consumers' rights to make informed choices. It is time for Congress to stop the FDA from censoring truthful health information.

The Freedom of Health Speech Act addresses the FTC's violations of the First Amendment. Under traditional constitutional standards, the federal government bears the burden of proving an advertising statement false before censoring that statement. However, the FTC shifted the burden of proof to industry. The FTC presumes health advertizing is false and compels private parties to prove the ads (and everything the regulators say the ads imply) to be true to a near conclusive degree. This violation of the First and Fifth Amendments is harming consumers' by blocking innovation in the health foods and dietary supplement marketplace.

The Freedom of Health Speech Act requires the government actually prove that speech is false before the FTC acts against the speaker. This is how it should be in a free society where information flows freely in order to foster the continuous improvement that benefits us all. The bill also requires that the FTC warn parties that their advertising is false and give them a chance to correct their mistakes before the FTC censors the claim and imposes other punishments.

Mr. Speaker, if we are serious about putting people in charge of their health care, then shouldn't we stop federal bureaucrats from preventing Americans from learning about simple ways to improve their health. I therefore call on my colleagues to stand up for good health and the Constitution by cosponsoring the Health Freedom Restoration Act and the Freedom of Health Speech Act.